



# PROPOSED RULE MAKING

**CR-102 (June 2004)**

(Implements RCW 34.05.320)

Do NOT use for expedited rule making

Agency: Department of Agriculture

- ☒ Preproposal Statement of Inquiry was filed as WSR 06-07-170; or  
☐ Expedited Rule Making--Proposed notice was filed as WSR \_\_\_\_\_; or  
☐ Proposal is exempt under RCW 34.05.310(4).

- ☒ Original Notice  
☐ Supplemental Notice to WSR \_\_\_\_\_  
☐ Continuance of WSR \_\_\_\_\_

**Title of rule and other identifying information:** (Describe Subject) Chapter 16-470 WAC - Quarantine - Agricultural Pests (WAC 16-470-900 through 917). This proposal amends WAC 16-470-912 and 16-470-917 by increasing the laboratory diagnostic hourly fees, nematode laboratory diagnostic fees, and post entry inspection fee within the OFM fiscal growth factor for fiscal year 2007 (3.38%). In addition, this proposal repeals the current fee schedule for virus, bacteria, and fungus laboratory diagnostic fees and replaces them with an hourly charge that reflects the costs associated with performing these tests as required by RCW 17.24.131.

**Hearing location(s):**

Washington State Dept. of Agriculture  
1111 Washington Street SE  
Natural Resource Building - 2<sup>nd</sup> Floor  
Conference Room 205  
Olympia, WA 98504-2560

Date: June 27, 2006 Time: 2:00 PM**Submit written comments to:**

Name: Henri Gonzales

Address: PO Box 42560, Olympia, WA 98504-2560

e-mail [hgonzales@agr.wa.gov](mailto:hgonzales@agr.wa.gov)fax (360) 902-2094 by June 27, 2006**Assistance for persons with disabilities:** ContactHenri Gonzales by June 20, 2006

TTY (360) 902-1996 or ( ) \_\_\_\_\_

**Date of intended adoption:** July 11, 2006

(Note: This is NOT the effective date)

**Purpose of the proposal and its anticipated effects, including any changes in existing rules:**

This proposal increases the plant pathology laboratory diagnostic hourly fees, nematode laboratory diagnostic fees, and post entry inspection fee by the fiscal growth factor of 3.38% for fiscal year 2007. In addition, this proposal repeals the current schedule for virus, bacteria, and fungus laboratory diagnostic fees and replaces it with a time-and-materials charge that reflects the costs, as required by RCW 17.24.131, associated with performing specific testing. These fee increases and restructuring are necessary because new diagnostic technologies have made available a wider range of options for testing specific pathogens, and current fee levels no longer cover the costs of providing plant pathology laboratory and post entry inspection services. RCW 17.24.131 mandates that the department support these activities through fees for services. With these modest increases, the department anticipates that the program will be able to remain financially solvent.

**Reasons supporting proposal:** Current fee levels are not adequate to cover the costs of providing new types of testing technologies for plant diseases, existing testing in the plant pathology laboratory and post entry inspection services. The Nursery Advisory Committee, which is appointed by the director of the Department of Agriculture to represent the interests of the nursery industry, supports the proposal.

**Statutory authority for adoption:** Chapters 17.24 and 34.05 RCW**Statute being implemented:** Chapter 17.24 RCW**Is rule necessary because of a:**

Federal Law?

☐ Yes ☒ No

Federal Court Decision?

☐ Yes ☒ No

State Court Decision?

☐ Yes ☒ No

If yes, CITATION:

**DATE**

May 24, 2006

**NAME** (type or print)

Mary A. Martin Toohey

**SIGNATURE****TITLE**

Assistant Director

**CODE REVISER USE ONLY**CODE REVISER'S OFFICE  
STATE OF WASHINGTON  
FILED

MAY 24 2006

TIME

10:11

AM

WSR

06-11-171

PM

(COMPLETE REVERSE SIDE)

**Agency comments or recommendations, if any, as to statutory language, implementation, enforcement, and fiscal matters:**

None

**Name of proponent:** (person or organization) Washington State Dept. of Agriculture with the support of the Nursery Advisory Committee

☐ Private  
☐ Public  
☒ Governmental

**Name of agency personnel responsible for:**

Name	Office Location	Phone
Drafting.....Mary Toohey	1111 Washington Street SE, Olympia, WA 98504-2560	(360) 902-1907
Implementation. Tom Wessels	1111 Washington Street SE, Olympia, WA 98504-2560	(360) 902-1984
Enforcement.....Tom Wessels	1111 Washington Street SE, Olympia, WA 98504-2560	(360) 902-1984

**Has a small business economic impact statement been prepared under chapter 19.85 RCW?**

☐ Yes. Attach copy of small business economic impact statement.

A copy of the statement may be obtained by contacting:

Name:

Address:

phone ( ) \_\_\_\_\_

fax ( ) \_\_\_\_\_

e-mail \_\_\_\_\_

☒ No. Explain why no statement was prepared.

RCW 19.85.030(1)(a) requires that an agency must prepare a small business economic impact statement (SBEIS) for proposed rules that impose a more than minor cost on businesses in an industry. The department has analyzed the economic effects of the proposed fee increases, which are based upon the OFM fiscal growth rate factor for 2006, and revisions to the fee schedule for new testing technologies, and has concluded that they will not impose more than minor costs on the regulated industry. Therefore, a formal SBEIS is not required.

**Is a cost-benefit analysis required under RCW 34.05.328?**

☐ Yes A preliminary cost-benefit analysis may be obtained by contacting:

Name:

Address:

phone ( ) \_\_\_\_\_

fax ( ) \_\_\_\_\_

e-mail \_\_\_\_\_

☒ No: Please explain: The Washington State Department of Agriculture is not a listed agency under RCW 34.05.328(5)(a)(i).

AMENDATORY SECTION (Amending WSR 05-12-111, filed 5/31/05, effective 7/1/05)

**WAC 16-470-912 Schedule of fees and charges--Applicable fees and charges.** (1) Hourly rate.

Hourly rate - business hours	<del>\$((31.95))</del> <u>33.00</u>
Hourly rate - nonbusiness hours	<del>\$((40.80))</del> <u>42.15</u>

(2) Laboratory diagnostic services, except as provided in subsection (3) or (4) of this section, are charged at the applicable hourly rate plus materials.

(3) ~~((Plant pathology))~~ Nematology laboratory diagnostic fees are as follows:

Identity Determination	1 sample	5 samples	10 samples	50 samples	100+ samples
<del>((virus</del> (ELISA)	At cost	At cost	\$10.55 ea	\$5.20 ea	\$3.00 ea
bacteria	42.35 ea	40.90 ea	38.35 ea	37.10 ea	37.10 ea
fungus	44.80 ea	38.35 ea	37.10 ea	35.75 ea	33.20 ea
nematode	<del>((33.20))</del> <u>34.30 ea</u>	<del>((30.60))</del> <u>31.60 ea</u>	<del>((28.05))</del> <u>28.95 ea</u>	<del>((27.35))</del> <u>28.25 ea</u>	<del>((25.45))</del> <u>26.30 ea</u>

Note: To receive volume rates, samples must be submitted as a unit and identification requests must be for one specific ~~((virus; bacterium, fungus, or))~~ nematode~~((--Samples tested for multiple pathogens will be considered as multiple samples))~~, unless ~~((all pathogens))~~ more than one nematode can be detected in a single test without additional inputs.

(4) The department reserves the right to provide service by written agreement at a single, negotiated cost or at a negotiated rate for projects with at least one of the following characteristics:

- (a) Projects greater than one hundred samples;
- (b) Projects requiring materials not readily available; or
- (c) Projects requiring special handling or prolonged incubation periods.

The rate charged shall not be less than the cost to the department of performing the tests.

AMENDATORY SECTION (Amending WSR 05-12-111, filed 5/31/05,  
effective 7/1/05)

**WAC 16-470-917 Schedule of fees and charges--Fees for post entry inspection services.** (1) Post entry site inspection and/or permit review and approval . . . . . \$((~~64.05~~)) 66.20

(2) Subsequent inspections of post entry plant materials are provided at the applicable hourly rate.

(3) Post entry inspection fees may be waived for state universities, United States Department of Agriculture researchers, and other public entities.